

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ALLEN E. PEITHMAN, JR., *et al.*

Defendants.

4:15CR3091

RESTRAINING ORDER

The United States of America has applied to this Court for a restraining order pursuant to 21 U.S.C. § 853(e)(1)(A) to preserve the availability of certain property that is subject to a forfeiture Money Judgment entered in this criminal case. The Court reviews the record in this case and, being duly advised in the premises, finds as follows:

1. On March 28, 2017, a federal jury found defendants, Allen E. Peithman, Jr., Sharon A. Elder, Cornerstone Plaza, Inc., and AEP Properties, L.L.C. guilty (Filing No. 262) of certain counts in the Indictment.
2. On May 1, 2017, this Court entered a Memorandum and Order regarding forfeiture stating that at the time of sentencing the Court will enter a money judgment against the defendants in the total amount of \$1,142,942.32, reserving the right to alter or amend the amount prior to time of sentencing. (Filing No. 348, pp. 6-7). The Court stated that its Order should be construed as a preliminary order of forfeiture with respect to the money judgment. (Filing No. 348, p. 7).
3. On May 9, 2017, John Reinick filed a praecipe for writ of execution in the District Court of Lancaster County, case no. CI17-1229 based on judgment he obtained on September 2, 2016, against Allen Peithman in the amount of \$17,153.21 plus costs of \$89.46, with

interest accruing at the rate of 2.345 percent. Case No. CI13-3069, Lancaster County Nebraska.

4. On May 12, 2017, the United States recorded a Notice of Lis Pendens with the Register of Deeds of Lancaster County, Nebraska, thereby giving notice that it had an interest in 2733 Randolph as the result of Peithman's conviction in case number 4:15CR3091.
5. On August 2, 2017, this Court entered a Money Judgment jointly and severally among and against the defendants in the amount of \$1,142,942.32 (Filing No. 418) and, on August 7, 2017, entered Judgment against defendant Peithman. (Filing No. 435).
6. After an appeal by defendants and a remand from the Eighth Circuit, this Court will determine the respective liability of the defendants for the portion of the Money Judgment representing funds used by the defendants to purchase drug paraphernalia, and previously determined by the Court to total \$117,653.57.
7. The Sheriff of Lancaster County, Nebraska, levied on the real estate commonly known as 2733 Randolph Street, Lincoln, Nebraska, owned by Allen Peithman and on February 14, 2019, the Sheriff accepted a bid of \$80,250.00 for the property.
8. After deducting costs, the Sheriff provided the remaining proceeds from the sale in the amount of \$78,542.59 to the Clerk of the Nebraska District Court.
9. Pursuant to this Court's entry of a forfeiture Money Judgment, the United States is entitled to the balance of the proceeds of the sale, (the subject property) after payment to John Reinick pursuant to his state court judgment against Peithman.
10. The United States seeks to maintain the *status quo* and prevent dissipation of the balance of the proceeds from the Lancaster County Sheriff's sale of 2733 Randolph Street pending further order of this Court.

11. Pursuant to 21 U.S.C. § 853(e)(1), this Court may enter a restraining order or injunction, require the execution of satisfactory performance bond, or take any other action to preserve the availability of property subject to forfeiture.
12. The jury's verdict against defendant Peithman and his co-conspirators provides sufficient probable cause for the issuance of a restraining order with regard to the subject property.
13. The United States' Application for a Restraining Order should be granted.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED as follows:

- A. All persons and entities who have any interest or control over the subject property, including but not limited to the Lancaster Sheriff's Office, the Clerk for the District Court for Lancaster County, and defendant and his agents, are hereby restricted and restrained from attempting or completing any action that would affect the availability of the balance of funds from the sale of 2733 Randolph St., including but not limited to distributing, or otherwise disposing of, or removing said funds from the jurisdiction of this Court.
- B. This Restraining Order will remain in full force and effect until further order of this Court.
- C. The United States is directed to serve this Order on the Sheriff for Lancaster County, the Clerk for the District Court for Lancaster County and counsel for Mr. Reinick.

DATED this 10th day of April, 2019.

BY THE COURT:

s/ Richard G. Kopf
Senior United States District Judge